IN THE HIGH COURT OF JUDICATURE FOR

RAJASTHAN AT JODHPUR

:::

O R D E R

Panna Lal
Vs.
United India Insurance Company,
Divisional Officer, Delhi Gate, Udaipur.

S.B. CIVIL WRIT PETITION NO.2716/2002 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 29th August, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Mr.P.S. Bhati, for the petitioner.
Mr.M.S. Singhvi, for the respondents.

BY THE COURT

The petitioner-workman in this writ petition has assailed the validity of the award dated 10th February, 1997 passed by the learned Tribunal, Jaipur (for short the 'Tribunal'). The appropriate Government by its order dated 14th March, 1989 referred the following industrial dispute to the learned Tribunal as under:-

> "Whether the action of the management of United India Insurance Co. Ltd., Udaipur in terminating the services of Shri Panna Lal Meghwal, Peon in their Divisional Officer, Udaipur w.e.f. 11.06.1980 is justified? If not, to what relief is the workman entitled?"

The petitioner-workman was engaged on daily wages basis as Class-IV employee on the services of the respondents on 01st September, 1979 and was allowed to continue only up to 10th June, 1980. The case of the petitioner before the Tribunal was that he completed more than 240 days in the services of the respondents during the period from 01.09.1979 to 10.06.1980. His services were terminated by verbal order w.e.f. 11th June, 1980 in complete violation of the provisions contained in Section 25-F of the Industrial Dispute Act.

On the other hand, the Management contended before the Tribunal that the petitioner worked with them only for a period of 176 days and his engagement was made purely on temporary

basis as a daily wages employee. The management thereafter requisitioned names from employment exchange and summoned such persons for interview although the name of the petitioner was also received from the exchange, but he did not turn up for the interview. In conciliation proceedings before the Labour Commissioner, petitioner undertook to settle the dispute if the management was prepared to give him experience certificate. Accordingly, experience certificate was issued to the petitioner on 28.04.1984. However, the petitioner again raised dispute before Regional Labour Commissioner, Ajmer. According to this certificate also the petitioner had worked only for 176 days, there was thus no violation of Section 25-F of the Industrial Dispute Act. It was argued that there was no violation of Section 25-G because inspite of being required to appear before the interview, the petitioner failed to avail of the opportunity.

Learned Tribunal after hearing arguments of the parties recorded a finding that there was no violation of either Section 25-F or Section 25-G of the Industrial Dispute Act. Learned Tribunal also took note of the fact that the petitioner during pendency of the reference proceedings was appointed in the services of the Public Works Department w.e.f. 01st March, 1982 and, therefore, when the representative of the petitioner was confronted by the Tribunal with this, it was argued on behalf of

the petitioner that he was entitled to monitory relief for the period from 11.06.1980 to 28.02.1982 even if reinstatement was not directed in view of his appointment elsewhere.

I have considered the arguments advanced by the learned counsel for the parties and perused the records.

In my view when the workman confined his claim before the learned Tribunal only for grant of back wages from 11.06.1980 to 28.02.1982 because of his fresh appointment with Public Works Department w.e.f. 01.03.1982, such a relief cannot be granted to the petitioner. He could be held entitled to such relief only if he had proved before the learned Tribunal that the respondents in retrenching his services violated provisions of Section 25-F or 25-G of the Industrial Dispute Act. Neither did petitioner prove violation of any of these provisions nor has been able to point out any error apparent on the face of record in the award passed by the learned Tribunal. No relief even otherwise can be granted to the petitioner in view of his subsequent employment with the Public Works Department.

In the circumstances, the writ petition is dismissed. There shall no order as to costs.

[MOHAMMAD RAFIQ],J.

Ashwini/-